 <p>CITY OF DOVER</p>	<p style="text-align: center;">CITY OF DOVER – ORDINANCE</p> <p>Ordinance Number: O – yyyy.mm.dd - Ordinance Title: Updating the Dover Zoning Ordinance Chapter: 170</p>
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The City of Dover Ordains:

1. PURPOSE

The purpose of this ordinance is to amend Chapter 170 of the Code of the City of Dover, entitled Zoning, by updating the Code to reflect changes in the community and in land use regulations.

2. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the chapter as a whole by replacing any instance of the term “Planning Department” or “Planning Office” with "Planning and Community Development Department

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the chapter as a whole by replacing any instance of the term “Planning Director” with " Director of Planning and Community Development.”

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the chapter as a whole by replacing any instance of the term “Comprehensive development plan” with "Master Plan."

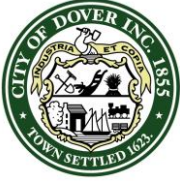
AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the chapter as a whole by replacing any instance of the term "manufactured house" with "manufactured home."

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the chapter as a whole by replacing any instance of the term “Planning Board of Natural Scientists” with "State Board of Natural Scientists."

AND



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Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the chapter as a whole by replacing any instance of the term “Department of Health and Welfare with the Department of Health and Human Services.”

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the chapter as a whole by replacing any instance of the term “Zoning Board of Appeals” or “Planning Board of Adjustment” with “Zoning Board of Adjustment”

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the chapter as a whole by replacing any instance of the term “Water Supply and Pollution Control Commission” or “Water Supply and Pollution Control Division” with the “Department of Environmental Services, Water Division.”

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the chapter as a whole by replacing any instance of the term “Engineering Department” with “Community Services Department.”

AND

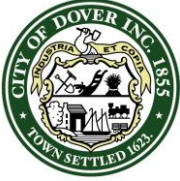
Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the chapter as a whole by replacing any instance of the term “manufactured houses” with “manufactured homes.”

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the chapter as a whole by replacing any instance of the term “Certified Mail” with “Verified Mail”

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the chapter as a whole by replacing any reference to New Hampshire Administrative Rules “Env-Ws 421” to “Part Env-Wq 401.”



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3. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the title of ARTICLE II from “Word Uses” to “Terminology”

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the title of Section 170-6 from “Definitions” to “Word Uses and Definitions”

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-6 revising the definition of the term Manufactured Housing Park or Mobile Home Park” to read as follows:

“MANUFACTURED HOUSING PARK or MOBILE HOME PARK means any plot of ground upon which two (2) or more **MANUFACTURED HOUSING HOMES**, occupied for dwelling or sleeping purposes, are located.”

4. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-7 “Establishment of Districts”, to add subsections to subsection A as follows:

“A Districts:

The City of Dover is hereby divided into the following districts:

(1) Residential

HR	Heritage Residential District
R-40	Rural Residential District
R-20	Low-Density Residential District
R-12	Medium-Density Residential District
RM-SU	Suburban Density Multi-residential District
RM-U	Urban Density Multi-residential District



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(2) Nonresidential

B-1	NEIGHBORHOOD Business District
B-3	Thoroughfare Business District
B-4	HOTEL/Retail District
B-5	Highway Business District
I-1	Restricted Industrial District
I-2	Rural Restricted Industrial District
I-4	Assembly and OFFICE
ETP	Executive and Technology Park

(3) Mixed -Use

H	Hospital
LBW	Little Bay Waterfront District
O	OFFICE District
CBD	Central Business District
CWD	Cochecho Waterfront District

(4) Overriding

CD	Conservation District
URD	Urban Renewal District
RRD	Riverfront Residential Overlay District
GWP	Groundwater Protection District
HWD	Hazardous Waste Landfill District
RCM	Residential-Commercial Mixed Use
SRD	Scenic Road Overlay District
TDR	TRANSFER OF DEVELOPMENT RIGHTS
TEL	TELECOMMUNICATIONS FACILITIES
WPD	Wetland Protection District”

5. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-11 “Use Regulations revising the numbering as follows:

Except as herein provided, no BUILDING or land shall be used except for the purposes permitted in the district as described in this Article.



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- A. Uses Permitted by Right. A use listed in the Tables of Use and Dimensional Regulations by District is permitted as a matter of right in the district in which it is listed, subject to the rules set forth in this Chapter and other sections of the Code of the City of Dover.
- B. Uses Permitted by Right, With Conditions Imposed. A use listed in the Tables of Use and Dimensional Regulations by District and denoted with a numerical reference number (footnote) indicates a use that is permitted by right only when in compliance with certain imposed conditions.
- C. Uses Permitted by Special Exception. A use listed in the Uses Permitted by Special Exception Section of the Tables of Use and Dimensional Regulations by District may be permitted as a Special Exception granted by the ZONING BOARD OF ADJUSTMENT in accordance with the conditions of 170-52 herein and in conformance with such other rules and regulations as may apply. The Special Exception designation in a given district does not constitute an authorization of an assurance that such use will be permitted.
- ~~C-D.~~ Uses not permitted. A use not listed in the Tables of Use and Dimensional Regulations by District shall not be permitted in the district.
- ~~D-E.~~ PLANNING BOARD Site Review Approval. Any development/redevelopment meeting the criteria laid out in the Applicability section of the Site Review Regulations, of the City of Dover shall be subject to the rules and regulations contained said chapter.
- ~~E-F.~~ Overriding district regulations. All uses are subject to the regulations of the overriding districts as listed and defined in this Chapter. (Refer to Article VII.)”

6. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the title of Section 170-16 from “Dimensional Regulations for Swimming Pools” to “Swimming Pools”

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the title of Section 170-17 from “Dimensional Regulations for Handicapped Accessible Additions” to “Removal of Barriers to Access”



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AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising the title of Section 170-25 “FLOODPLAIN DEVELOPMENT” to “General Provisions”

7. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-18 “Customary Home Occupations” subsection I updating the driveway reference citation as follows:

“I. A minimum of two (2) OFF-STREET PARKING SPACES shall be provided. All driveways to be used in connection with such occupations shall conform to Chapter 92. ~~Driveways 153 Site Plan Review or Chapter 157 Land Subdivision Regulations, as appropriate.~~”

8. AMENDMENT

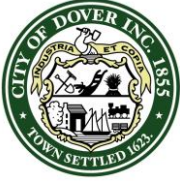
Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-20 “Central Business District Regulations” subsection A adding numbered subsections as follows:

“A. Purpose and Intent

(1) The City of Dover Central Business District (CBD) follows the premises of context sensitive zoning. This context sensitive zoning is intended to foster a vital downtown both for itself and for its adjacent NEIGHBORHOODs and major roadways leading into the downtown through a lively mix of uses—with SHOPFRONTs, SIDEWALK cafes, and other commercial uses at STREET level, overlooked by canopy shade trees, upper story residences and OFFICEs.

(2) Redevelopment within the CBD shall be regulated by these context sensitive zoning regulations, in order to achieve the City’s vision set forth in the 2007 update to the Land Use Chapter of the Master Plan, adopted by the PLANNING BOARD on November 13, 2007.

(3) These context sensitive zoning regulations were originally developed through a citizen-based discussion process regarding the design for the improvement of all properties in the CBD. To allow further refinement consistent with individual areas, the district has



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been divided into sub-districts, with special requirements for each sub-district to allow for context sensitive development along roadways and NEIGHBORHOODs alike. In 2012-2013, using a similar citizen-based process, these context sensitive zoning regulations were extended to the major roadways that lead into downtown, identified as the Downtown Gateway Sub-district.

(4) All of the areas within the CBD share a common goal of increased emphasis on the form and placement of STRUCTUREs, and a decreased emphasis on the function(s) contained within them. As such this Article sets careful and clear controls on BUILDING form—with broader parameters on BUILDING use—so as to shape clear, attractive PUBLIC SPACEs (good STREETs, NEIGHBORHOODs and parks) with a healthy mix of uses. With proper urban form, a greater integration of BUILDING uses is natural and comfortable.

(5) Wherever there appears to be a conflict between the form based code and other sections of the Zoning Ordinance (as applied to a particular development), the requirements specifically set forth in this section shall prevail. For development standards not covered herein, the other applicable sections in the City of Dover Code shall be used as the requirement.”

AND

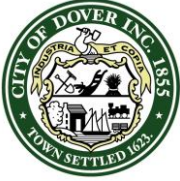
Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-20 “Central Business District Regulations” subsection F removing “(i)” from subsections (1)(b) and (c), and merging the text into the line above, as follows:

“(a) Energy Efficiency and Environmental Conservation

⊕ LEED (Leadership in Energy and Environmental Design) standards, or an equivalent standard (or such others as may succeed them), are encouraged to be incorporated into the BUILDING design.

(b) PUBLIC SPACE

⊕ Many of these standards apply only in conditions that enhance and define the PUBLIC SPACE. These controls concentrate on the PUBLIC



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SPACE/views from the PUBLIC SPACE and minimize interference in the private realm.”

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-20 “Central Business District Regulations” subsection H removing “(a)” and merging the text into the section above as follows:

“(1) Deviations from the requirements herein may be requested by application to the PLANNING BOARD for a conditional use permit (see Section B).

Administrative appeals from this Section may be directed to the ZONING BOARD OF ADJUSTMENT (as outlined in 170 – 52). Projects submitted shall follow the process outlined with Chapter 149, Site Review Regulations.

~~a~~ Any redevelopment of an existing STRUCTURE within the CBD Downtown Gateway or Mixed Use sub-districts does not require a Conditional Use Permit if it results in three (3) or fewer total residential units, or if it increases the gross floor area of nonresidential space by less than two thousand five hundred (2,500) square feet, and is exempt from the regulations of this Section, except for SETBACK, BUILD TO, and use regulations. Density requirements for residential uses do not apply.”

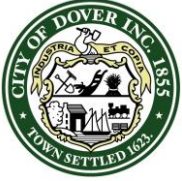
9. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-22 “Telecommunication Facilities” subsection D revising the numbering as follows:

“(1) Location or replacement of TELECOMMUNICATIONS FACILITIES on existing TOWERS, ANTENNAS or ALTERNATIVE TOWER STRUCTURES.

(a) The location or replacement of TELECOMMUNICATIONS FACILITIES on existing TOWERS, ANTENNAS or ALTERNATIVE TOWER STRUCTURES may be approved by the Planning Department provided the following information is submitted in an application:

(a1) A scaled plan detailing exact size and location of the telecommunication devise including a scaled elevation view.



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(b~~2~~) Submission of proof that the telecommunication device is needed to service City of Dover residents.

(e~~3~~) Proof that the device meets all other technical requirements of this ordinance.

(b) Any application denied by the Planning Department may be appealed to the PLANNING BOARD.”

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-22 “Telecommunication Facilities” subsection E revising the numbering as follows:

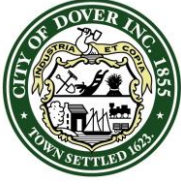
“E. Performance Standards.

The uses listed in this section are deemed to be permitted uses, and at the discretion of the PLANNING BOARD, may require further review under this Chapter in accordance with Chapter 149, Site Review Regulations, and all other applicable ordinances and regulations of the City of Dover.

(1) Principal or Secondary Use.

(a) Subject to this ordinance, an APPLICANT who obtains site review approval to site under this ordinance as a secondary and permitted use, may construct TELECOMMUNICATIONS FACILITIES in addition to the existing principal use. ANTENNAS and TOWERS may be considered either principal or secondary uses. A different existing use or an existing STRUCTURE shall not preclude the installation of an ANTENNA or TOWER on such LOT.

(b) For purposes of determining whether siting of an ANTENNA or TOWER complies with zoning district development regulations, including, but not limited to area, SETBACK, LOT COVERAGE, FRONTAGE, and other dimensional requirements, the dimensions of the entire LOT shall control, even though the ANTENNAS or TOWERS may be located on leased parcels within such LOTS. TOWERS that are constructed, and ANTENNAS that are installed in accordance with the provisions of this ordinance, shall not be deemed the expansion of a non-conforming use or STRUCTURE. Further, said facilities shall not be considered an ACCESSORY USE.

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(2) HEIGHT Requirements.

(a) New TOWER Construction – one hundred eighty (180) feet maximum.

(b) Co-location on Existing TOWER and ANTENNAS – current HEIGHT plus fifteen percent (15%) (not to exceed two hundred (200) feet)

(c) Co-location on ALTERNATIVE TOWER STRUCTURES – current HEIGHT plus twelve (12) feet

(d) The HEIGHT requirements and limitations outlined above shall preempt all other HEIGHT regulations as required by the City of Dover Zoning Ordinance, and shall apply only to TELECOMMUNICATIONS FACILITIES. A Conditional Use Permit may be granted by the PLANNING BOARD to waive the HEIGHT limitations only if the intent of this Chapter is preserved (e.g. when it can be shown that there would be no increase in adverse impact) and the increased HEIGHT would provide a greater opportunity for co-location provided that:

(a1) The granting of the permit will not be detrimental to the public safety, health or welfare or injurious to other property, and will promote the public interest.

(b2) A written narrative identifying a particular hardship or special circumstance that warrants granting the permit. Factors to be considered, but not limited to, in determining a hardship or special circumstance shall include:

(1a)topography and other site features

(2b)availability of Alternative site locations

(3c)property location as relates to required coverage area

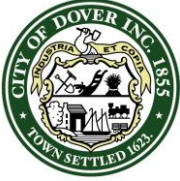
(4d)size/magnitude of project and availability of co-location

(e3) Necessary federal approvals and/or recommendations have been received.”

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-22 “Telecommunication Facilities” subsection H revising the numbering as follows:

“H Bonding and Security and Insurance.



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(1) Recognizing the extremely hazardous situation presented by abandoned and unmonitored TOWERS, the PLANNING BOARD shall set the form and amount of security that represents the cost for removal and disposal of abandoned towers in the event that the TOWER is abandoned and the TOWER owner is incapable and unwilling to remove the TOWER in accordance with Subsection I below.

(2) Bonding and surety shall be consistent with the provisions in the Chapter 155, Subdivision of Land. Furthermore, the PLANNING BOARD shall require the submission of proof of adequate insurance covering accident or damage.”

10. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-23 “Impact Fees” subsection F revising the numbering as follows:

“F Waivers

~~(1)~~ The PLANNING BOARD may grant full or partial waivers of IMPACT FEES where the PLANNING BOARD finds that one (1) or more of the following criteria are met with respect to the particular public capital facilities for which IMPACT FEES are normally assessed:

~~(a)~~1) The PLANNING BOARD may agree to waive all or part of an IMPACT FEE ASSESSMENT and accept in lieu of a cash payment, a proposed contribution of real property or facility improvements of equivalent value and utility to the public. Prior to acting on a request for a waiver of IMPACT FEES under this provision that would involve a contribution of real property or the construction of capital facilities; the PLANNING BOARD shall submit a copy of the waiver request to the City Council for its review and consent prior to its acceptance of the proposed contribution. The value of contributions or improvements shall be credited only toward facilities of like kind, and may not be credited to other categories of IMPACT FEE ASSESSMENT. The APPLICANT shall pay all costs incurred by the City for the review of such proposal, including consultant and counsel fees.”

11. AMENDMENT



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Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-25 “Floodplain Development” subsection J revising the numbering as follows:

“J. General Standards.

In all AREAs OF SPECIAL FLOOD HAZARD, the following standards are required:

(1) Anchoring

(a) All NEW CONSTRUCTION and SUBSTANTIAL IMPROVEMENTs shall be designed or modified and adequately anchored to prevent flotation, collapse or lateral movement of the STRUCTURE resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(b) All MANUFACTURED HOMEs to be placed or SUBSTANTIALLY IMPROVED within AREAs OF SPECIAL FLOOD HAZARD shall be elevated on a permanent foundation, such that the LOWEST FLOOR of the MANUFACTURED HOME is at least two (2) feet above the BASE FLOOD ELEVATION and shall be securely anchored to resist flotation, collapse or lateral movement by providing over-the-top or frame ties to ground anchors. Specific requirements shall be that:

(~~i~~1) Over-the-top ties shall be provided at each of the four (4) corners of the MANUFACTURED HOME, with two (2) additional ties per side at intermediate locations, with MANUFACTURED HOMEs less than fifty (50) feet long requiring one (1) additional tie per side, or;

(~~ii~~) Frame ties shall be provided at each corner of the home, with five (5) additional ties per side at intermediate points, with MANUFACTURED HOMEs less than fifty (50) feet long requiring four (4) additional ties per side.

(~~iii~~2) All components of the anchoring system shall be capable of carrying a force of four thousand eight hundred (4,800) pounds.



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(~~iv~~3) Any additions to the MANUFACTURED HOME shall be similarly anchored.”

12. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-27 “Conservation District” subsection G revising the numbering as follows:

“G Boat docks. A boat dock may be allowed on a residential lot, provided that the following provisions are met:

(~~a~~1) The dock is for recreational and accessory use only.

(~~b~~2) One dock is allowed per lot.

(~~e~~3) The beneficiary of an easement or right-of-way, recorded at the Strafford County Registry of Deeds prior to the October 10, 1986, amendment posting date for the purpose of providing water access to non-waterfront lots, shall be entitled to one boat dock within the prescribed easement or right-of-way.

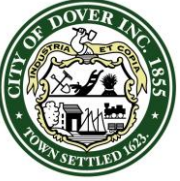
(~~d~~4) All applicable state and federal approvals have been received.

(~~e~~5) A dock may be provided a maximum space for two slips. Joint use of private docks by adjoining waterfront residents, not to exceed two slips per lot, shall be encouraged when appropriate.”

13. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-27.1 “Wetlands Protection District” subsection C(1) updating the Code of Administrative Rules citation and removing the paragraph space as follows:

“(1) The Wetlands Protection District is hereby determined to be all areas of wetlands as defined by RSA 482-A:2, X and New Hampshire Administrative Rule ~~Wt 101.103~~ Env-Wt 101.113, which states a “‘Wetland’ means an area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes, bogs and similar areas. For the purpose of this section, the delineation of wetland protection

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district boundaries shall be consistent with NHDES Wetlands Bureau Rules Env-Wt. 301.01 or successor regulations”

AND

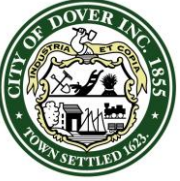
Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-27.1 “Wetlands Protection District” subsection D(1)(a) by removing “(i)” as follows:

“D. Procedural requirements.

(1) Presence of Wetland Protection District on site.

(a) Where field investigation indicate that a Wetland Protection District is present on a proposed development site, those wetlands shall be delineated on the basis of hydrophytic vegetation, hydric soils, and wetlands hydrology in accordance with the techniques outlined in the Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1, (January, 1987) or successor document. The hydric soils component of wetlands delineations shall be determined in accordance with the manual Field Indicators for Identifying Hydric Soils in New England (Version 2, July 1998, published by the New England Interstate Water Pollution Control Commission) or successor document. Pursuant to RSA 310-A:75 through 310-A: 87, a Certified Wetland Scientist shall conduct this delineation.

(i) A Certified Wetland Scientist is defined as: “a person who, by reason of his or her special knowledge of hydric soils, hydrophytic vegetation, and wetland hydrology acquired by course work and experience, as specified by RSA 310-A:84, II-a and II-b, is qualified to delineate wetland boundaries and prepare wetland maps; to classify wetlands; to prepare wetland function and value assessments; to design wetland mitigation; to implement wetland mitigation; to monitor wetlands functions and values; and to prepare associated reports, all in accordance with standards for identification of wetlands adopted by the New Hampshire Department of Environmental Services or the United States Army Corps of Engineers or its successor, and who has been duly certified by the board.” (RSA 310-A:76) If necessary, a botanist shall be used in conjunction with the wetlands scientist to identify wetland vegetation where

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required. The botanist shall have equivalent and practical experience to that of the wetlands scientist.”

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-27.1 “Wetlands Protection District” subsection E(2)(a) updating the Code of Administrative Rules and renumbering as follows:

“E. Permitted uses.

~~(1) Any use otherwise permitted by this Chapter, except on-site sewage disposal systems, may be permitted in a Wetland Protection District. Any use permitted under Section E (1) must first receive conditional use approval as provided for in Section F before any BUILDING permit or subdivision/site plan can be approved.~~

~~(a) Crossing of a Wetland Protection District as provided for in Section F(1).~~

~~(b) The construction or reconstruction of FENCES, footbridges, catwalks, boat docks and wharves does not require a conditional use permit, provided that:~~

~~(i) Said STRUCTURES are constructed on posts or pilings so as to permit unobstructed flow of water and are designed in compliance with the New Hampshire Wetlands Board Code of Administrative Rules (WT 400 and 600).~~

~~(ii) The natural contour of the wetland is preserved.~~

~~(iii) All other applicable provisions of the city's Zoning Ordinance have been met.”~~

“E. Permitted uses. Any use otherwise permitted by this chapter, except on-site sewage disposal systems, may be permitted in a Wetland Protection District. Any use permitted under Subsection E must first receive conditional use approval, as provided for in Subsection F, before any building permit or subdivision/site plan can be approved.

(1) Crossing of a Wetland Protection District as provided for in Subsection F(1).

(2) The construction or reconstruction of fences, footbridges, catwalks, boat docks and wharves does not require a conditional use permit, provided that:



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- (a) Said structures are constructed on posts or pilings so as to permit unobstructed flow of water and are designed in compliance with the New Hampshire Wetlands Bureau Administrative Rules Chapters Env-Wt 400 and Env-Wt 600
(b) The natural contour of the wetland is preserved.
(c) All other applicable provisions of this chapter have been met.”

AND

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-27.1 “Wetlands Protection District” subsection G(1)(a) updating the clarifying the distance is measured in “feet” :

“(a) Buffers Established. Buffers are hereby established around and encircling all wetlands other than those that were created as legally permitted sedimentation/detention basins or roadside drainage ditches. The minimum width of the wetland buffers shall be fifty (50) feet horizontal distance as measured outward from the perimeter edge of the wetland. Wherever a permit to fill a wetland has been issued by either the New Hampshire Department of Environmental Services (NHDES) or the U.S. Army Corps of Engineers (USACOE), the perimeter of the wetland shall be deemed to be the new edge between the fill as placed in accordance with the permit and the remaining wetland. If there is no remaining wetland, there is no buffer. All other wetland edges shall be determined in accordance with Section D (1) above.”

14. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-28.2 “Residential-Commercial Mixed Use (RCM) Overlay District” subsection renumbering and ordering the section as follows:

A. “Purpose and intent.

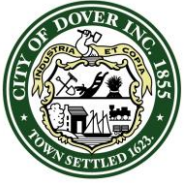
- (1) The Residential-Commercial Mixed Use Overlay District is designed as an overlay district that allows a mixture of residential use and commercial uses on one parcel. In order for a developer to utilize these regulations, the Planning Board shall have granted a conditional use permit. The district includes options which enable and encourage greater flexibility in the design of residential housing for older persons with commercial projects. The overlay permits development of large tracts of land on a development-plan basis which allows flexibility in internal road design, with reduced dwelling lot sizes and modified dimensional requirements.



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- (2) The mixed residential and commercial uses are intended to be complementary to one another and to create a sense of community between the mixed uses. Housing and commercial uses can be developed to provide appropriate use of land, facilitate the economical and efficient provision of public services, promote open space conservation, protect the natural and scenic attributes of the land, and expand opportunities for the development of housing for older persons, as defined under RSA 354-A:15, outside the traditional residential developments.
- B. Conditional use permit.
- (1) Conditional use approval may be granted by the Planning Board (RSA 674:21, II) after proper public notice and public hearing, provided that the proposed project complies with the following standards:
- (a) The applicant demonstrates that the development complies with the design guidelines that are outlined in § 153-16 of the Site Review Regulations. These guidelines encourage a context-sensitive development, which encourages components that act as one project and not as two adjacent projects.
 - (b) The applicant demonstrates that the development poses no detrimental effects on surrounding properties. Potential areas of impact that need to be analyzed include, but are not limited to, vehicular traffic, noise, property value, visual blight, natural resources degradation, light pollution, and offensive emissions such as dust, odor, or smoke.
 - (c) The applicant shall submit a fiscal impact analysis as defined in § 157-21C(1)(b) of the Land Subdivision Regulations. The analysis shall demonstrate that the project is at least a cost-neutral project for the City at present and 10 years from the occupation.
- (2) Conditional use approval shall be subject to a formal agreement between the Planning Board and the applicant. Said agreement shall be recorded at the Strafford County Registry of Deeds.
- C. Location. The Residential-Commercial Mixed Use Overlay District shall include any parcel located within the B-4, I-4 or ETP zone which is greater than 50 acres and has the ability to connect into municipal water and sewer.
- D. Permitted uses. The following uses are permitted:
- (1) Principal uses.
- (a) Housing for older persons as that term is defined under RSA 354-A:15 and 42 U.S.C. § 3607(b)(2) and the regulations adopted thereunder in the following settings:
 - [1] (i) Single-family dwelling,
 - a. including the use of manufactured housing.



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- [2] ~~(i)~~ Two-family dwelling.
- [3] ~~(ii)~~ Three- to four-family dwelling.
- [4] ~~(iii)~~ Multifamily dwelling.
- [5] ~~(iv)~~ Manufactured housing parks (permitted outright without a special exception).

(b) Public and private utilities.

(c) Nonresidential uses as allowed as follows:

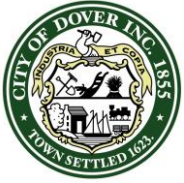
- [1] ~~(i)~~ Any use allowed in the underlying zone that is compatible with housing for older persons.
- [2] ~~(ii)~~ Barber or beauty shop.
- [3] ~~(iii)~~ Bank.
- [4] ~~(iv)~~ Eating/drinking establishments (no drive-through service).
- [5] ~~(v)~~ Bed-and-breakfast.
- [6] ~~(vi)~~ Office.
- [7] ~~(vii)~~ Retail store.
- [8] ~~(viii)~~ Theater.
- [9] ~~(ix)~~ Adult day care.
- [10] ~~(x)~~ Nursing homes (in areas not serviced by City water and sewer utilities at a density of one bedroom per 10,000 square feet of land; in areas serviced by City water and sewer utilities at a density of one bedroom per 7,500 square feet of land).
- [11] ~~(xi)~~ Congregate care facilities (in areas not serviced by City water and sewer utilities at a density of one unit per 10,000 square feet of land; in areas serviced by City water and sewer utilities at a density of one unit per 7,500 square feet of land).
- [12] ~~(xii)~~ Other uses compatible with housing for older persons may be approved via Conditional Use, using the criteria in 170-20 B(2).
- [13] ~~(xiii)~~ Nonresidential uses in existence at the adoption of this section on adjacent parcels shall be allowed to expand within the development if conceptually shown on the approved plan.

(2) Accessory uses.

- (a) Recreational facilities.
- (b) "Community building," defined as a building used as a place of meeting, recreation or social activity typically for use by the residents of a particular development.
- (c) Maintenance buildings.
- (d) Rental and sales offices.

E. Procedural concepts.

- (1) The developer shall prepare a development plan, which locates the proposed types of nonresidential and residential development, utilities, access roads, and public ways. The parcels comprising the development may be under separate ownership but shall



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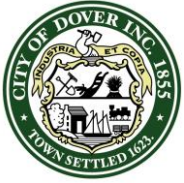
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be treated as one development and shall be bound by the approval granted for the entire development plan. If approval is granted, individual lots must be developed as part of the larger development plan and phasing outlined below, and not separately. The development plan must identify the percentage of the nonresidential uses, residential uses and open space. Nonresidential and/or mixed-use uses must comprise at least 55% of the total proposed floor area for the development (outdoor display areas may be counted towards the minimum required floor area); residential uses must not exceed 45% of the total proposed floor area for the development. A building shall be considered "mixed-use," provided that at least 50% of the floor area of the first floor is reserved as commercial space and provided that such commercial space is located roughly in the front half of the building and extends the length of the building facade. Residential accessory uses (e.g. mechanical, storage, laundry, etc.) are permitted to be located within the back half of the first floor of any mixed-use building.

- (2) A minimum of 20% of the area of the original tract shall be reserved as open space and identified as such on the development plan. Fifty percent of the required open space (as defined in § 157-60) must be usable uplands and reasonably accessible to all property owners in the project. Any open space provided above 20% may be mixed wetlands and upland.
- (3) Residential uses require that the calculation of permitted density shall be completed through the submission of a yield plan (as defined in § 157-60) applied to the development lot and not individually to the internal dwelling lots.
- (4) For residential development that includes two-family, three- to four-family or multifamily dwellings, density shall be based upon calculating one unit per 40,000 square feet of contiguous upland, and using 150 feet of frontage on a public roadway.
- (5) For single-family residential density shall be based upon calculating one unit per 10,000 square feet of contiguous upland, and using 100 feet of frontage on a public roadway.
- (6) The development plan may be phased for a term of five years. The phasing plan shall contain provisions which promote the mixed use of the site consistent with Subsection A. For the purposes of this section, development shall include:

 - (a) ~~(1)~~ Construction of structures;
 - (b) ~~(2)~~ Environmental remediation;
 - (c) ~~(3)~~ Site preparation or demolition;
 - (d) ~~(4)~~ Roadway utility or recreation and common area design and construction;
and
 - (e) ~~(5)~~ Bonding or other security for site development.
- (7) The phasing plan shall provide that no more than 50% of the residential development may be occupied prior to completion of between 25% and 50% of the nonresidential structures, as negotiated between the Planning Board and the developer.



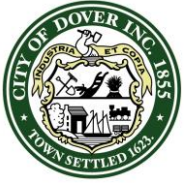
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- (8) Provided that the developer is making reasonable efforts to develop the site, the Planning Board may extend the initial five-year phasing period, provided a request for extension is submitted before the expiration of the initial five-year phasing term.
- (9) ~~(4)~~ Residential development plan guidelines.
- (a) The developer shall be permitted to allocate permitted density among internal dwelling lots in a flexible and creative manner. The sum total of the permitted density shall not exceed the permitted density of the development lot or legal lot. Layouts may include individual lots or a cluster of units without lot lines.
 - (b) Dwelling layouts shall be so designed that parking is screened from external roadways by garages, building locations, grading or screening. Major topographical changes or removal of existing trees shall be avoided wherever possible, and water, wetlands, and other scenic views from the external streets shall be preserved as much as possible.
 - (c) Where possible, it is desirable and encouraged to mix residential and nonresidential uses. This may be achieved through situating the buildings close to each other, or through allowing structures to house residential, preferably on the second or above floor, with nonresidential on the first floor. Creativity and flexibility is encouraged, and the development plan may offer another option for mixing uses. Units created through the TDR program are not required to be housing for the elderly, as that term is defined under RSA 354-A:15 and 42 U.S.C. § 3607(b)(2).
 - (d) All residential development must adhere to architectural design guidelines. Said standards will reflect a New England village motif and include structures with peaked roofs and architectural shingles. The guidelines for this development are included in Chapter 153, Site Review Regulations,
 - (e) All manufactured houses shall adhere to the standards outlined in Chapter 101, Manufactured Home Parks, with the exception of §§ 101-3, 101-4, 101-5, 101-6, and 101-7F, which shall be controlled by the provisions hereof and unless noted below. Where there is a difference in the requirements between this overlay district and the provisions of Chapter 101, Manufactured Home Parks, the provisions of the overlay district shall apply.
- (10) ~~(2)~~ Nonresidential development plan guidelines.
- (a) The general character of the nonresidential structures within the development lot is intended to be a pedestrian-friendly setting, with emphasis on the natural characteristics of the site. The site design should create a sense of character and cohesiveness through landscaping, facade treatment, and signage.
 - (b) The guidelines for this development are included in Chapter 153, Site Review Regulations, § 153-16.

F. Standards and regulations.

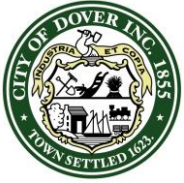


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- (1) Internal roads. As part of the approval of the conditional use permit, the Planning Board shall determine whether internal roads shall be public or private. If a road is determined to be private, no municipal services shall be provided other than public safety, utilities maintenance, and regulatory services. Unless noted below, roadways shall conform to the street design criteria laid out in the Code.
 - (a) Minimum internal right-of-way.
 - [1] ~~(i)~~ Maximum residential: 35 feet.
 - [2] ~~(ii)~~ Maximum nonresidential: 50 feet.
 - (b) Minimum pavement width.
 - [1] ~~(i)~~ Minimum residential: 20 feet.
 - [2] ~~(ii)~~ Minimum nonresidential: 28 feet.
 - [3] ~~(iii)~~ Minimum sidewalk pavement width: five feet.
 - [4] ~~(iv)~~ Minimum bike/Segway[®]/golf cart path width: five feet.
 - (c) Minimum tangent length at intersections: 75 feet.
 - (d) Maximum street angle at intersections: 60°.
 - (e) Minimum center-line radius: 100 feet.
 - (f) Minimum tangent length between reverse curves: 50 feet.
- (2) Dimensional requirements.
 - (a) Nonresidential/mixed-use buildings.
 - [1] ~~(i)~~ Minimum structure setback from external lot line: 50 feet.
~~(a)~~ Expanding existing nonresidential uses are not held to this setback.
 - [2] ~~(ii)~~ Minimum structure setback from external right-of-way: 50 feet.
 - [3] ~~(iii)~~ Maximum nonresidential building height: 55 feet.
 - [4] ~~(iii)~~ For all other dimensional requirements for nonresidential structures and parking setbacks refer to the underlying zone.
 - (b) Residential dwellings.
 - [1] ~~(i)~~ Minimum structure and parking setback from external lot line: 50 feet.
 - [2] ~~(ii)~~ Minimum structure and parking setback from external row: 100 feet.
 - [3] ~~(iii)~~ Maximum residential building height: 35 feet.
 - [4] ~~(iv)~~ Minimum frontage on internal road: 40 feet.
 - [5] ~~(v)~~ Minimum setbacks:
 - [a] Front yard setbacks: 20 feet.
 - [b] Distance between buildings: 24 feet.
- (3) Parking.
 - (a) All dwelling units shall require two independently accessible parking spaces per unit, except that the congregate-care and nursing-home requirements shall be as otherwise defined by this chapter. Nonresidential uses shall comply with parking requirements defined by this chapter.
 - (b) Overnight parking shall not be permitted on internal roadways.”



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15. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Section 170-28.3 “Groundwater Protection” subsection F(2)(b) removing the reference to RSA 146-E:4 as follows:

“(b) Pursuant to Chapter 109-27, Fire Prevention and Life Safety, ~~and RSA 146-E:4~~, on-premise use heating oil tank facilities shall comply with the provisions of the National Fire Protection Association Standard NFPA 31, “Installation of Oil-Burning Equipment”.

16. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-52 “Zoning Board of Adjustment”, revising section C(1)(a) as follows:

“(a) To hear and decide appeals where it is alleged there is error in any order, requirements, decision or determination made ~~by the~~ in the enforcement of this Chapter (interpretation of ordinance).”

17. AMENDMENT

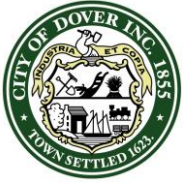
Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-29-6 “Criteria for Non-conforming EXPANSIONS”, revising section A(1) as follows:

~~“A~~ EXPANSION of EXISTING EXCAVATIONS located in an area in which EXCAVATIONS are no longer permitted by zoning that was in effect on August 4, 1989 may be restricted or modified with conditions by the PLANNING BOARD, if after notice to the owner and a public hearing, the PLANNING BOARD finds that the EXPANSION will have a substantially different and adverse impact on the NEIGHBORHOOD. Impacts will vary depending upon the particular NEIGHBORHOOD; nevertheless, the following criteria will be taken into consideration:

(~~4~~A) The EXCAVATION will not cause a diminution in area property values or unreasonably change the character of the NEIGHBORHOOD.

(~~2~~B) The EXCAVATION will not create any NUISANCE or create health or safety hazards.

(~~3~~C) The EXCAVATION will not unreasonably accelerate the deterioration of highways or create safety hazards in the use thereof.”



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18. AMENDMENT

Chapter 170 of the Code of the City of Dover, entitled Zoning, is hereby amended by revising Chapter 170-29-7 “Operation Standards”, revising section A(1) as follows:

“~~A~~ For EXCAVATIONS not requiring a permit, the following standards apply. For those EXCAVATIONS requiring a permit, these standards are considered to be the minimum; more stringent standards such as are consistent with the purpose of these regulations may be applied, as deemed necessary by the PLANNING BOARD.

(~~4~~A) No EXCAVATION shall be permitted within fifty (50) feet of the boundary of a disapproving ABUTTER, within one hundred fifty (150) feet of a dwelling that either existed or for which a BUILDING permit has been issued at the time the EXCAVATION is commenced.

(~~2~~B) No EXCAVATION shall be permitted below road level within fifty (50) feet of the right-of-way of any public highway as defined in RSA 229:1 unless such EXCAVATION is for the purpose of said highway.

(~~3~~C) Vegetation or suitable BERM or combination of both shall be maintained or provided within the peripheral areas of items (1) and (2) of this section.

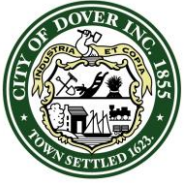
(~~4~~D) No fuels, lubricants or other toxic or polluting chemicals shall be stored on-site unless in compliance with State laws or rules pertaining to the storage of such materials.

(~~5~~E) Where temporary SLOPES will exceed a one to one (1:1) grade, a FENCE or other suitable barricade shall be erected to warn of danger and/or to limit access to the site.

(~~6~~F) Appropriate drainage shall be provided to prevent the accumulation of freestanding water for prolonged periods.

(~~7~~G) EXCAVATION practices that result in continued siltation of surface waters or any degradation of water quality of any public or private water supplies are prohibited.

(~~8~~H) No EXCAVATION shall be permitted within one hundred (100) feet of any great pond, navigable river, or any other standing body of water ten (10) acres or more in area, or within fifty (50) feet of any other stream, river or brook which normally flows throughout the year, or any naturally-occurring standing body of water less than ten (10) acres, prime wetland as designated in accordance with RSA 482-A: 15, I or any other



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wetland area as defined by the Department of Environmental Services (DES) and, Chapter 170, Zoning, Article VII, 170-27.1.C.

(9I) Sand and gravel extraction operations shall not excavate below an elevation four (4) feet above the seasonal high water table observed when the associated water supply well has not been operating for at least two (2) weeks prior to the date of measurement. Refer to section 170-28.3, Groundwater Protection, for monitoring report requirements.”

19. TAKES EFFECT

This ordinance shall take effect upon passage and publication of notice as required by RSA 47:18.

AUTHORIZATION

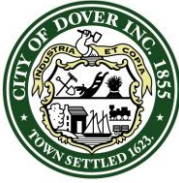
Approved as to Funding:	Daniel R. Lynch Finance Director	Sponsored by:	Councilor Dennis Ciotti City Council Planning Board Representative
Approved as to Legal Form and Compliance:	Joshua M. Wyatt City Attorney		
Recorded by:	Susan Mistretta City Clerk		

DOCUMENT HISTORY:

First Reading Date:	Public Hearing Date:
Approved Date:	Effective Date:

DOCUMENT ACTIONS:

VOTING RECORD		
Date of Vote:	YES	NO
Mayor, Robert Carrier		
Deputy Mayor, Dennis Ciotti, Ward 2		
Councilor Michelle Moffet Lipinski, Ward 1		



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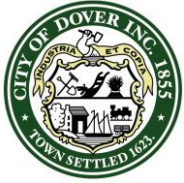
Councilor Deborah Thibodeaux, Ward 3		
Councilor Joshua Manley, Ward 4		
Councilor Dennis Shanahan, Ward 5		
Councilor Fergus Cullen, Ward 6		
Councilor Lindsey Williams, At Large		
Councilor John O'Connor, At Large		
Total Votes:		
Resolution does does not pass.		

ORDINANCE BACKGROUND MATERIAL:

The amendments provided to the Council for ratification are derived from suggestions raised by General Code, as part of the migration to its Code/Ordinance management system. In addition, the Planning Board responded to community concerns regarding the architecture in downtown Dover. After working with the public, a steering committee and a consultant, amendments to the ordinance were developed, including updates to the use and dimensional tables. These tables are referenced in amendment 6 and attached herein.

Also included in the background is the required report of findings to the Board, and a copy of the letter mailed to each property owner in Dover. After public hearings in February, the Planning Board adopted corresponding amendments to the Site and Subdivision Regulations on February 26, 2019.

Amendment #	Section	Summary	Why
2	170-6	Amend definitions for Child Care Home and Porch and Fence	Correct a reference to a section in the site regs, and update definition – As recommended by General Code
3	170-8	Update the date of the Zoning Map to match codification	For consistency. *Date will reflect the ratification date.
4	170-25	Correct Floodplain Development reference	Correct a reference to a section in the ordinance – As recommended by General Code
5	170-27.1	Revise the definition of Certified Wetlands Scientist to meet state statute	Adding language per RSA 310-A:76 – As recommended by General Code
6	170-12	Complete footnote on HR table, update CWD footnotes, replace the CBD tables with updated ones	Footnote is missing a final clause, extend buffer protections in CWD, and coordinate with Arch. Design Standards into tables.
7	170-20	Update the streetscape requirements	Updates to public art and aesthetics requirements

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Amendment #	Section	Summary	Why
8	170-20	Update architectural guidelines for downtown buildings to standards	Strengthen architectural requirements, especially at ground floor level, adding provisions for solar ready and green roof technologies
9	170-30.2	Amend the listed fees to refer to the Fee Schedule	Locate all fees in one location – As recommended by General Code
10	170-33	Revise the height of fences from 6 to 8 feet	To be consistent with the height allowed in all sections – As recommended by General Code.
11	170-53	Amend the listed fees to refer to the Fee Schedule	Locate all fees in one location – As recommended by General Code

The Planning Board created a steering committee in the summer of 2018 to review the existing architectural design guidelines in hopes of using grant funding from PlanNH to update the guidelines into Standards. Over the fall and winter the consultant, Resiliency Planning, worked to draft language, which was presented as a first draft to the Planning Board on February 26, 2019. The Steering Committee and consultant revised language in March, presenting an updated draft to the Board on April 9, 2019. On May 14th the Planning Board posted the amendments, making them temporarily the legal requirements. This triggered staff to mail the attached letter to all property owners encouraging attendance at two public hearings (June 11 and 25). Two residents attended and provided feedback, which was incorporated into the amendments, which were finally adopted after a third public hearing on July 23.

The Planning Board unanimously adopted amendments. Per Chapter 170 section 53 G, the City Council now holds a public hearing, and review of the amendments. It may adopt the amendments as a whole, or separate the elements into 10 separate votes. As the amendments are comprehensive in nature, the Council may WAIVE a second letter to all property owners, by majority vote. The Council may overturn the amendments, via a vote of not less than two-thirds (2/3) of its membership present and voting.